

BB 9
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAUL HARRIS,
Plaintiff,

v.

MARY GRENIER, in her official
and personal capacities,

Defendant.

Case:2:20-cv-10065
Judge: Berg, Terrence G.
MJ: Morris, Patricia T.
Filed: 01-10-2020 At 02:18 PM
PRIS HARRIS VS GRENIER (DP)

*****JURY TRIAL DEMAND*****

VERIFIED CIVIL RIGHTS COMPLAINT PURSUANT TO
TITLE 42, U.S.C. § 1983

There is no other civil action between the parties
arising out of the same transactions or occurrences
alleged in this Complaint.

COMES NOW plaintiff Paul Harris ("Plaintiff"), pursuant to
Title 42, U.S.C. § 1983, seeking redress of the violations of his
federal constitutional rights by the above-named defendant, and
in support therefor states:

I. Verification

Plaintiff hereby states and deposes under oath and the penalty
of perjury pursuant to Title 28, U.S.C. § 1746(2) that he is of
sound mind and majority age, that the allegations forming the basis
of this Complaint are true and correct based upon his direct and
personal knowledge and involvement in the matters attested to
herein, and that he is competent to testify to same;

II. Certification

2. Plaintiff hereby certifies pursuant to Fed.R.Civ.P. 11 that, to the best of his knowledge, information, and belief, this Complaint is not being interposed for any improper purpose, including, but not limited to, harassment of the defendant, that the relief sought is supported by existing federal law, that the factual allegations of this Complaint have sufficient evidentiary support, and that this Complaint complies with the requirements of Rule 11;

III. Number of previously-filed civil actions

3. Plaintiff has heretofore filed ZERO civil actions;

IV. Jurisdiction and Venue

4. The United States District Court for the Eastern District of Michigan is vested with subject-matter jurisdiction over this Complaint pursuant to Title 28, U.S.C. §§ 1331 and 1367;

5. Pursuant to E.D. Mich. LR 83.10(a)(1) and E.D. Mich. LR 83.10(b)(3) & (4), the proper venue for this action is the Southern Division of the Eastern District of Michigan;

V. Short and Plain Statement of the claims

6. Pursuant to Fed.R.Civ.P. 8(a), the Short and Plain Statement of the claims urged in this Complaint is, as follows:

By her failure to act despite knowledge of the substantial risk of serious harm to Plaintiff, defendant Mary Grenier was deliberately indifferent to Plaintiff's serious medical needs within the meaning of the Eighth Amendment.

VI. Demand for the Relief Sought

7. Plaintiff hereby seeks compensatory and punitive damages for the violations of his Eighth Amendment rights as alleged herein, as well as injunctive relief;

VII. Statement of Facts

8. The relevant facts appertaining to this action are, as follows:

- a. As a result of a severe automobile accident in the late 1990's, Plaintiff underwent a bilateral total knee replacement procedure;
- b. The events forming the basis of this Complaint took place while Plaintiff was situated as state prisoner and housed at the Gus Harrison Correctional Facility ("ARF"), located at 2727 East Beecher Street, Adrian, Michigan 49221-3506;
- c. Defendant Mary Greiner, a medical doctor, was Plaintiff's medical provider during all times relevant to the herein allegations;
- d. During an appointment with Defendant Greiner on July 3, 2019, Plaintiff informed her that he was suffering severe pain in his arms, shoulders, and knees, and that the pain medication prescribed to him was not effective in alleviating the pain;
- e. During the above-described medical appointment, Plaintiff also addressed his need for knee braces;
- f. Instead of prescribing Plaintiff a medication that would effectively treat his pain, Defendant Greiner abruptly canceled Plaintiff's pain medications, and huffily told him that he should purchase over-the-counter medications from the prison commissary;
- g. With respect to the knee brace issue, Defendant Greiner told Plaintiff that he should purchase them from one of the approved vendors;
- h. Defendant Greiner abjectly failed to provide Plaintiff with any treatment for the above-described conditions and the resultant severe pain;

i. From July 2019 until December 2019, Plaintiff languished in severe pain and was not provided any treatment for the above-described conditions;

VIII. Exhaustion of administrative remedies

9. Plaintiff is aware that failure to exhaust administrative remedies is an affirmative defense that the defendant has the burden of proving, but in light of the fact that the prison has alleged that Plaintiff failed to file a timely Step III appeal, Plaintiff includes the following facts:

a. On July 6, 2019, Plaintiff filed Step I grievance ARF-19-07-1658-12D;

b. On August 2, 2019, Plaintiff's grievance was denied on the merits at Step I;

c. On August 12, 2019, Plaintiff filed a Step II appeal;

d. On August 23, 2019, the Step II appeal was denied, but was not returned to Plaintiff until Monday, September 3, 2019;

e. The Step II response was actually delivered to Plaintiff with the passing out of the institutional mail after the close of business day on Friday, September 6, 2019;

f. Pursuant to P.D. 03.02.130(HH), a Step III appeal must be filed "within ten business days after receiving the Step II response[.]";

g. Since Plaintiff received the Step II response on September 6, 2019, the Step III appeal was due on Friday, September 20, 2019;

h. The Step III appeal is date-stamped as received on Monday, September 23, 2019;

i. The Step III respondent stated that there is "a grace period for standard mail" with respect to the filing of Step III appeal;

j. Given the fact that Plaintiff did not receive the Step II response until September 6, 2019 and the fact that the Step III response was received on September 23, 2019, it is clear that Plaintiff transmitted the Step III appeal well before the actual

due date of September 20, 2019, and therefore his Step III appeal was timely-filed;

As an additional wrinkle to the above, on April 18, 2019, the Business Office at ARF sent the following notice to all prisoners at ARF via JPay:

Due to circumstances beyond facility control at ARF, the United States Postal Service has been and continuing [sic] to deliver (including but not limited to) opened, torn, damaged, improper arrival or mail...etc. Mail issue are pertaining to all regular and legal mail items at this time.

* * *

This on-going [sic] issue is being addressed with the local postmaster.

A later notice indicated that ongoing mail was likewise being affected;

10. In light of the above, this court should find and adjudge that Plaintiff filed a timely Step III appeal and that he has sufficiently exhausted all available administrative remedies with respect to ARF-19-07-1658-12D;

IX. Causes of Action

11. For purposes of an Eighth Amendment medical needs claim, deliberate indifference can be shown by a prison doctor's response to a prisoner's medical needs, and it is enough that the doctor failed to act despite her knowledge of a substantial risk of serious harm;

12. As a direct result of Defendant Greiner's unconstitutional conduct, Plaintiff was left bereft of any treatment for his underlying condition and the severe pain brought on by such for five calendar months;

X. Count I-Violation of the Eighth Amendment

13. Plaintiff hereby realleges and incorporates by reference the preceding paragraphs;

14. The basic concept underlying the Eighth Amendment is nothing less than the dignity of mankind;

15. As a prisoner, Plaintiff is entitled to receive adequate medical care from his custodians for his serious medical conditions;

16. As a prisoner, Plaintiff retains the right to not be subjected to unnecessary pain and suffering;

17. As Plaintiff's medical provider, Defendant Greiner knew or should have known from an examination of Plaintiff and review of his documented medical history that he suffers from a serious medical condition;

18. As Plaintiff's medical provider, Defendant Greiner knew or should have known that Plaintiff's severe pain was not going to be alleviated by the use of over-the-counter medications purchased from the prison commissary;

19. As Plaintiff's medical provider, Defendant Greiner knew or should have known that she had a duty as a physician to provide pain treatment to Plaintiff;

20. Defendant Greiner knew or should have known that prisoners are not permitted to purchase knee braces from any outside vendor;

21. Defendant Greiner knew or should have known that directing Plaintiff to a mode of treatment that was unavailable to him and thereafter allowing him to languish in treatable pain for five months constitutes deliberate indifference and the wanton infliction of unnecessary pain;

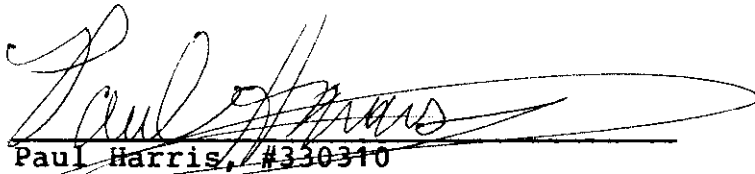
22. Accordingly, Plaintiff hereby asserts a claim against Defendant Greiner under the Eighth Amendment;

XI. Relief Requested

WHEREFORE, plaintiff Paul Harris seeks relief in the following forms:

- a. A monetary judgment in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS for Count I as compensatory damages;
- b. A monetary judgment in the amount of ONE HUNDRED AND FIFTY THOUSAND DOLLARS for Count I as punitive damages;
- c. Injunctive relief in the form of enjoining Defendant Greiner to ensure that Plaintiff receives the treatment necessary for his condition and adequate treatment for his severe pain;
- d. Award of all costs associated with the prosecution of this action.

Very respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paul Harris", is written over a horizontal line.

Paul Harris, #330310
Gus Harrison Correctional Facility
2727 East Beecher Street
Adrian, Michigan 49221-3506

MS #330310

ison Correctional Facility

St Beecher

Michigan 48221-3506

NewCard

United States District Court

331 West Lafayette Boulevard

Detroit Michigan 48226

RECEIVED
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CLERK'S OFFICE
U.S. DISTRICT COURT

CIVIL COVER SHEET FOR PRISONER CASES

Case No. <u>20-10065</u>		Judge: <u>Terrence G. Berg</u>	Magistrate Judge: <u>Patricia T. Morris</u>
Name of 1st Listed Plaintiff/Petitioner: PAUL HARRIS		Name of 1st Listed Defendant/Respondent: MARY GRENIER	
Inmate Number: <u>330310</u>		Additional Information:	
Plaintiff/Petitioner's Attorney and Address Information:			
Correctional Facility: Gus Harrison Correctional Facility 2727 E. Beecher Street Adrian, MI 49221 LENAWEE COUNTY			

BASIS OF JURISDICTION

- ☐ 2 U.S. Government Defendant
☒ 3 Federal Question

ORIGIN

- ☒ 1 Original Proceeding
☐ 5 Transferred from Another District Court
☐ Other:

NATURE OF SUIT

- ☐ 530 Habeas Corpus
☐ 540 Mandamus
☒ 550 Civil Rights
☐ 555 Prison Conditions

FEE STATUS

- ☐ IFP *In Forma Pauperis*
☐ PD Paid

PURSUANT TO LOCAL RULE 83.11**1. Is this a case that has been previously dismissed?**

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: _____
Case No: _____
Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: _____
Case No: _____
Judge: _____